

MINUTES OF THE TOBACCO MASTER SETTLEMENT AGREEMENT
COMPLIANCE ADVISORY BOARD MEETING
June 30, 2021

The seventy-sixth meeting of the Tobacco Master Settlement Agreement Compliance Advisory Board was convened by conference call on June 30, 2021, at the Office of the Attorney General, 700 Capitol Avenue, Frankfort, Kentucky.

The meeting was attended by the following:

Michael Plumley – Attorney General’s Office
Jaclyn Hodges, Ellen Cartmell, Kerri Verden-Kentucky Tobacco Control Program
Dave Wilkerson – Department of Alcoholic Beverage Control
Clint Quarles – Department of Agriculture
Corey Krill– Kentucky Retail Federation

I. Meeting called to Order by Michael Plumley.

II. Minutes adopted from previous meeting.

III. Old Business

A. E-Cigarettes/JUUL

- Discussion of 50 state summary of e-cigarette regulations: <https://www.publichealthlawcenter.org/sites/default/files/E-Cigarette-Legal-Landscape-March15-2021.pdf>
- JUUL found in violation of discovery rules in NC case for destroying documents and ignoring court orders. Sanctions ordered.
- Settlement with NC in which JUUL paid \$40 million and agreed to various youth marketing restrictions.

B. NPM Adjustment Settlement

- 2020 proceeding begins August 1, 2021.

C. FDA Action

- Challenge to final rules on graphic warnings still pending decisions in federal courts. Warnings delayed to June, 2022.
- FDA will begin the process of prohibiting menthol from tobacco products, which will take at least 1-2 years.

D. MSA Payment

- \$126 million received in April, 2021.

IV. New Business

A. PMTA List Published

- On May 20, 2021, FDA posted the list of deemed new tobacco products for which a premarket application was submitted to FDA via the Premarket Tobacco Product Application (PMTA) pathway by Sept. 9, 2020. The list includes over 6 million products.

B. IQOS approved for modified risk status.

- On July 7, 2020, FDA announced that it had approved the marketing of the iQOS "Tobacco Heating System," which includes the iQOS device (heater and charger), Marlboro Heatsticks, Marlboro Smooth Menthol Heatsticks, and Marlboro Fresh Menthol Heatsticks, as modified risk tobacco products (MRTPs). The action authorizes Philip Morris USA to make reduced exposure (but not reduced risk) claims for the product.

C. Truth article on oral nicotine products.

- Increasingly popular oral nicotine products are frequently marketed as tobacco-free alternatives to smoking, claims that could imply lower-risk and are not authorized by the Food and Drug Administration, according to a recent Truth Initiative analysis of direct mail advertisements. Oral nicotine pouches and lozenges come in many flavors and are quickly gaining popularity and raising public health concerns. <https://truthinitiative.org/research-resources/tobacco-industry-marketing/oral-nicotine-products-entice-customers-tobacco-free>

V. Meeting adjourned.

Next meeting tentatively scheduled for September, 2021.